

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-100**

**RICHARD N. HOWELL and ESTHER
L. HOWELL, his spouse,**

Plaintiff,

vs.

**AIR & LIQUID SYSTEMS
CORPORATION, individually, and as
successor-in interest to BUFFALO
PUMPS,**

Defendants.

ORDER

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Plaintiffs, in their Complaint, have alleged that this Court has diversity jurisdiction because Plaintiffs are citizens of the State of North Carolina and none of the Defendants are citizens of the State of North Carolina. The Plaintiffs have further listed as a defendant Grinnell, Inc. That entity has responded as Grinnell LLC indicating that such defendant is a limited liability corporation. The Plaintiffs have further alleged that one of the defendants is Zurn Industries. That defendant has responded contending that the defendant is properly named Zurn Industries, LLC, a limited liability corporation. Neither Grinnell, LLC

nor Zurn Industries, LLC have alleged under which state those two defendants have been organized.

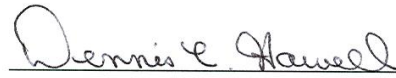
Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Neither the Defendants Grinnell LLC nor Zurn Industries, LLC have not yet disclosed whether they have constituent members or partners who are citizens of North Carolina and therefore will be required to do so.

ORDER

IT IS, THEREFORE, ORDERED that on or before **August 29, 2013**, the Defendants Grinnell LLC and Zurn Industries, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC’s and for any such constituent members or partners that is a limited liability company or partnerships shall identify the citizenships of the

respective constituent members or partners until all such constituents are fully identified.

Signed: August 8, 2013



Dennis L. Howell
United States Magistrate Judge

